

PENSIONS AND COMPENSATION TO CERTAIN PERSONS
RECEIVING RETIRED PAY

OCTOBER 6 (legislative day, SEPTEMBER 15), 1943.—Ordered to be printed

Mr. JOHNSON of Colorado, from the Committee on Military Affairs,
submitted the following

REPORT

[To accompany S. 771]

The Committee on Military Affairs, to whom was referred S. 771, to provide for payment of pensions and compensation to certain persons who are receiving retired pay, having considered the same, report favorably thereon with an amendment and, as amended, recommend that it do pass.

AMENDMENT

Strike out all following the enacting clause and in lieu thereof substitute the following:

That where any person authorized to receive military or naval retired pay in accordance with any provision of law would be eligible to receive pension or compensation under the laws administered by the Veterans' Administration, if he were not on the retired list in the case of Regular Army or Regular Navy personnel, or if he were not in receipt of retired pay in the case of other Army or Navy personnel, he may waive receipt of retired pay and allowances for the purpose of receiving such pension or compensation; and thereafter such person may waive receipt of such pension or compensation for the purpose of receiving retired pay and allowances. To prevent concurrent payments, when waiver of receipt of retired pay and allowances for the purpose of receiving pension or compensation is filed in the War Department or the Navy Department, the Department concerned shall notify the Veterans' Administration of the receipt of such waiver and the effective date of the stoppage of retired pay and allowances. Similar report to the War or Navy Department shall be rendered by the Veterans' Administration, when waiver of receipt of pension or compensation is filed in the Veterans' Administration for the purpose of receiving retired pay and allowances.

The purpose of this bill is to permit any person who is receiving retired pay pursuant to any provision of law relating to the retirement of persons in the regular military or naval service, and who would be eligible to receive pension or compensation under the laws administered by the Veterans' Administration, if he were not receiving such retired pay, to receive such pension or compensation by filing a waiver

of so much of his retired pay and allowances as is equal in amount to such pension or compensation.

This bill was referred to the Administrator of Veterans' Affairs and the Secretary of War, for their views. Both recommended identical amendment, which was adopted by the committee. Their reports follow:

VETERANS' ADMINISTRATION,
Washington, May 10, 1943.

HON. ROBERT R. REYNOLDS,
*Chairman, Committee on Military Affairs,
United States Senate, Washington, D. C.*

MY DEAR SENATOR REYNOLDS: Further reference is made to your letter dated February 27, 1943, requesting a report on S. 771, Seventy-eighth Congress, a bill to provide for payment of pensions and compensation to certain persons who are receiving retired pay.

The purpose of the bill is to permit any person who is receiving retirement pay pursuant to any provision of law relating to the retirement of persons in the regular military or naval service, and who would be eligible to receive pension or compensation under laws administered by the Veterans' Administration if he were not receiving such retired pay, to receive such pension or compensation by filing a waiver of so much of his retired pay and allowances as is equal to the amount of such pension or compensation.

It would appear that one of the reasons for the proposed legislation is to permit retired personnel to be relieved from payment of income and Victory taxes on a sum equal to the amount of the retirement pay waived by receiving such amount under the name of compensation or pension, which latter benefits under laws administered by the Veterans' Administration are exempted from taxation under section 3 of Public, No. 262, Seventh-fourth Congress, August 12, 1935.

The bill would authorize any person receiving retired pay to waive so much of his retired pay as is equal to the amount of compensation or pension to which he is otherwise entitled and to receive such compensation or pension plus the balance, if any, of his retired pay. The Veterans' Administration does not favor legislation proposing to authorize receipt of benefits under laws providing retirement pay and laws providing compensation or pension at the same time.

Adoption of such policy would present complications in existing laws which have been enacted with a view of barring anyone from receiving retirement pay and compensation or pension at the same time. For example, Public Law 365, Seventy-seventh Congress, approved December 22, 1941, amended section 4 of Public, No. 198, Seventy-sixth Congress, approved July 19, 1939, to read:

"Sec. 4. In the administration of laws pertaining to veterans, retired officers, and enlisted men of the Army, Navy, Marine Corps, and Coast Guard, who served honorably during a war period as recognized by the Veterans' Administration, shall be, and are entitled to hospitalization and domiciliary care in the same manner and to the same extent as veterans of any war are now or may hereafter be furnished hospitalization or domiciliary care by the Veterans' Administration and subject to those provisions of paragraph VI (A) of Veterans Regulation Numbered 6 (c), which provide for reduction of monetary benefits to veterans having neither wife, child, nor dependent parent while being furnished hospital treatment, institutional or domiciliary care."

Section 4 of Public Law 140, Seventy-seventh Congress, approved June 30, 1941, provides:

"Where an enlisted man placed on the retired list under this Act or under any provision of law would be eligible to receive pension or compensation under the laws administered by the Veterans' Administration, if he were not receiving retired pay, he may waive receipt of retired pay and allowances for the purpose of receiving such pension or compensation; and thereafter such retired enlisted man may waive receipt of such pension or compensation for the purpose of receiving retired pay and allowances. To prevent concurrent payments, when waiver of receipt of retired pay and allowances for the purpose of receiving pension or compensation is filed in the War Department that Department shall notify the Veterans' Administration of the receipt of such waiver and the effective date of the stoppage of retired pay and allowances. Similar report to the War Department shall be rendered by the Veterans' Administration, when waiver of receipt of pension or compensation is filed in the Veterans' Administration for the purpose of receiving retired pay and allowances."

The Veterans' Administration has no objection to extending the privileges provided by section 4 of Public Law 140, above quoted, to all personnel of the military or naval forces, but does not favor extending such privilege to authorize receipt of retired pay and compensation or pension at the same time.

Paragraph VI (A) of Veterans Regulation No. 6 (c), as amended, provides:

"VI (A) Where any disabled veteran having neither wife, child, nor dependent parent is being furnished hospital treatment, institutional or domiciliary care by the United States or any political subdivision thereof, the pension, compensation or emergency officers' retirement pay shall not exceed \$15 per month, provided that the amount payable for such disabled veteran entitled to pension for disability the result of injury or disease incurred after active military or naval service shall not exceed \$6 per month, and provided further, that where any disabled veteran who is being furnished hospital treatment, institutional or domiciliary care by the United States or any political subdivision thereof, has a wife, child or dependent parent the pension, compensation or emergency officers' retirement pay may, in the discretion of the Administrator, be apportioned on behalf of such wife, child or dependent parent, in accordance with instructions issued by the Administrator."

A retired person who had waived part of his retired pay and was receiving pension or compensation and retirement pay under the provisions of the bill might claim that he was entitled to \$15 per month as retirement pay and also entitled to \$15 per month as compensation or pension while hospitalized. A retired person who did not waive retirement pay to secure compensation or pension could only receive \$15 per month.

If further consideration is to be given the bill, it is suggested that it be amended to read as follows:

"That where any person authorized to receive military or naval retired pay in accordance with any provision of law would be eligible to receive pension or compensation under the laws administered by the Veterans' Administration, if he were not on the retired list, he may waive receipt of retired pay and allowances for the purpose of receiving such pension or compensation; and thereafter such person may waive receipt of such pension or compensation for the purpose of receiving retired pay and allowances. To prevent concurrent payments, when waiver of receipt of retired pay and allowances for the purpose of receiving pension or compensation is filed in the War Department or the Navy Department, the Department concerned shall notify the Veterans' Administration of the receipt of such waiver and the effective date of the stoppage of retired pay and allowances. Similar report to the War or Navy Department shall be rendered by the Veterans' Administration, when waiver of receipt of pension or compensation is filed in the Veterans' Administration for the purpose of receiving retired pay and allowances."

If so amended the Veterans' Administration would recommend favorable consideration of the bill.

Advice has been received from the Bureau of the Budget that there would be no objection by that office to the submission of this report to your committee.

Very truly yours,

FRANK T. HINES, *Administrator.*

WAR DEPARTMENT,
Washington, D. C., May 17, 1943.

Hon. ROBERT R. REYNOLDS,
*Chairman, Committee on Military Affairs,
United States Senate.*

DEAR SENATOR REYNOLDS: The War Department has no objection to the enactment of S. 771, Seventy-eighth Congress, a bill to provide for payment of pensions and compensation to certain persons who are receiving retired pay, provided it is amended along the lines hereinafter indicated so as to remove the possibility of discrimination and to simplify its administration.

The purpose of this bill is to permit any person who is receiving retired pay pursuant to any provision of law relating to the retirement of persons in the regular military or naval service, and who would be eligible to receive pension or compensation under the laws administered by the Veterans' Administration, if he were not receiving such retired pay, to receive such pension or compensation by filing a waiver of so much of his retired pay and allowances as is equal in amount to such pension or compensation.

The laws administered by the Veterans' Administration provide pensions on account of service-connected wartime disabilities at rates ranging from \$10 to \$250 per month depending upon the nature and extent of the disability, whereas monthly payments of retired pay in the lower grades are not in as large amounts as are provided by the pension laws in some instances.

Section 4 of Public Law 140, Seventy-seventh Congress, approved June 30, 1941, an act to provide for the discharge or retirement of enlisted men of the Regular Army and of the Philippine Scouts in certain cases (55 Stat. 395), quoted below, authorizes for retired enlisted men what S. 771 purports to authorize for other persons receiving retired pay pursuant to any provision of law relating to the retirement of persons in the regular military or naval service:

"SEC. 4. Where an enlisted man placed on the retired list under this Act or under any provision of law would be eligible to receive pension or compensation under the laws administered by the Veterans' Administration, if he were not receiving retired pay, he may waive receipt of retired pay and allowances for the purpose of receiving such pension or compensation; and thereafter such retired enlisted man may waive receipt of such pension or compensation for the purpose of receiving retired pay and allowances. To prevent concurrent payments, when waiver of receipt of retired pay and allowances for the purpose of receiving pension or compensation is filed in the War Department that Department shall notify the Veterans' Administration of the receipt of such waiver and the effective date of the stoppage of retired pay and allowances. Similar report to the War Department shall be rendered by the Veterans' Administration, when waiver of receipt of pension or compensation is filed in the Veterans' Administration for the purpose of receiving retired pay and allowances."

Thus retired enlisted men are granted authority to waive retired pay (or pension or compensation) so as to receive pension or compensation (or retired pay).

The War Department has no objection to the extension of such authorization to all military personnel. However, the language of the bill appears to relate to Regular Army and Navy personnel exclusively.

If further consideration is to be given to the bill it is suggested that it be amended to read as follows:

"That where any person authorized to receive military or naval retired pay in accordance with any provision of law would be eligible to receive pension or compensation under the laws administered by the Veterans' Administration, if he were not on the retired list in the case of Regular Army or Regular Navy personnel, or if he were not in receipt of retired pay in the case of other Army or Navy personnel, he may waive receipt of retired pay and allowances for the purpose of receiving such pension or compensation; and thereafter such person may waive receipt of such pension or compensation for the purpose of receiving retired pay and allowances. To prevent concurrent payments, when waiver of receipt of retired pay and allowances for the purpose of receiving pension or compensation is filed in the War Department or the Navy Department, the Department concerned shall notify the Veterans' Administration of the receipt of such waiver and the effective date of the stoppage of retired pay and allowances. Similar report to the War or Navy Department shall be rendered by the Veterans' Administration, when waiver of receipt of pension or compensation is filed in the Veterans' Administration for the purpose of receiving retired pay and allowances."

It is not possible to estimate the cost of this legislative proposal if it should be enacted into law, as there are so many unknown factors. However, it is thought that it would affect relatively few cases.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours.

HENRY L. STIMSON,
Secretary of War.

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